

REMARKS

Applicant's counsel thanks the Examiner for the careful consideration given the application. The term "natural-similar" has been replaced with "natural-identical". The term "natural-similar" has been amended accordingly in claims 1, 10 and 16. The term "chosen among" has been amended to "selected from the group consisting of" in claims 1, 4, 10, 11 and 13.

Re: 35 USC§112

Applicant has amended the claims being objected to as undefined. The Examiner has objected to the term "natural-similar" as both incorrect and undefined.

Applicant acknowledges the objection and submits that "natural-similar" is a translational/clerical mistake and "natural-identical" aromatizing agents should be used instead. "Natural-identical" flavourings/aromatizing agents has a well defined meaning in the art and the Applicant submits the following documents: an abstract from the scientific publication in J. Animal Science (2007), where the term has been converted into acronym NIF (Exhibit A), and a definition given on a website of food science of Wageningen Univ., Netherlands (Exhibit B).

Applicant has thus replaced the term in the claims and argues that it is not added subject matter because the person skilled in the art would recognise the mistake in using "natural-similar" instead of "natural-identical" as a simple translational/clerical error, especially when one has specific proven meaning and the other is non-sensical.

Re: 35 USC§103

The Examiner objects to the invention as claimed in claims 1, 3-20 and argues obviousness in the combination of Raczek et al in view of Blagdon et al. and further in view of Ueno et al. and Piva et al.

Applicant argues that the invention is not obvious in view of the combination of the four above cited documents. Raczek et al. shows only the use of acids impregnated in salt as feed additive. The Examiner then cites that the rest of the missing features according to the product of claim 1 are taught in Blagdon et al. The Examiner states the following:

The patent also teaches including salts, flavours and essential oils in the core. See col.4, line 34.

Applicant agrees that oils are cited but they are taught **only to be added to the fusible materials:**

Various adjunct materials are contemplated for incorporation in fusible materials according to the present invention. For example, antioxidants, light stabilizers, dyes and lakes, flavors, essential oils, anti-caking agents, fillers, pH stabilizers, and the like can be incorporated in the fusible material in amounts which do not diminish its utility for the present invention.

Fusible materials are defined in the invention as **shell materials**. (ref. col.3, line 44 – col. 4 line 38). Blagdon et al teaches capsules, where choline is the active principle, encapsulated in an outer shell of fusible material which may contain essential oils and flavours.

However, it is clear that this is different from the current invention, which contains a homogenous lipid phase in which the active substance is the combination of an acid and essential oil, with a demonstrated effect – the combination has a synergic effect on the growth of microbial flora. This is proven by the increase in production of lactic acid in various gastrointestinal portions according to Figure 8, which leads to no change in presence of positive bacteria (ref. Figs. 3 and 4), but a marked decrease of pathogenic and unwanted bacteria (Refs. Figs. 5 and 6). None of these advantages are obvious to the person skilled in the art by the teaching of Raczek et al. and Blagdon et al., nor is there any reason a person skilled in the art would combine the teachings of Raczek et al. and Blagdon et al. if he was trying to reach the solution of providing substances to the later part of the intestine to permit a more suitable environment for microflora to grow.

The Examiner also cites Ueno et al. and Piva et al., but it is clear that the lack of a teaching regarding the use of essential oils as active substances alone (or in synergy with the acid) renders the invention according to claim 1 not obvious to the person skilled in the art in combination of all 4 documents combined.

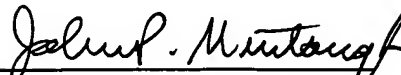
Applicant also fails to see why the person skilled in the art would be motivated to combine the teaching of the documents cited, when none of said documents try and solve the same problem of providing substances to the later part of the intestine to permit a more suitable environment for microflora to grow, as the product according to claim 1 does.

Applicant further argues that, if independent product claim 1 is novel and non-obvious, then by analogy it follows that claims 3-20, which include dependent claims on the product, the method to produce the product and uses thereof are also novel and non-obvious.

For these reasons, it is submitted that the claims as now presented are novel and non-obvious and a notice of allowance is accordingly respectfully solicited.

If any additional fees are required by this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. 35826.

Respectfully Submitted,
PEARNE & GORDON LLP

By 
John P. Murtaugh, Reg. No. 34216

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

Date: 2-22-07